

Proposed Amendment for Publication in the Register

04 NCAC 03C .1001 is proposed for amendment as follows:

04 NCAC 03C .1001 LOAN DOCUMENTATION

Unless otherwise provided, each ~~bank, or any branch thereof, where notes are held must~~ bank shall maintain on file the ~~appropriate supporting documents as follows:~~ following loan documentation:

- (1) Financial Statements. Financial statements shall be required from any ~~borrower~~ person who is a maker, co-maker, guarantor, endorser or surety on any unsecured loans or other unsecured extensions of credit in an amount of fifty thousand dollars (\$50,000) or more in the aggregate. Financial statements required by this Item shall:
 - (a) be signed or otherwise properly executed;
 - (b) be dated within 18 months preceding the origination date of the credit obligation;
 - (c) be renewed within 18 months after the date of the last financial statement on file;
 - (d) be addressed to, or made specifically for, the lending bank; and
 - (e) include such information as will adequately reflect the assets, liabilities, net worth and income of the borrower.
- (2) Financial Statement Exceptions. A bank may waive the financial statement required by Item (1) of this Rule for credit granted under a credit card. ~~Additionally, a bank may elect to substitute in the place of a current financial statement a current credit bureau report for consumer loans scheduled to be repaid in at least quarterly installments. For an individual whose unsecured obligations consist of consumer loans scheduled to be repaid in at least quarterly installments, a bank may substitute a current credit bureau report for the financial statement required by Item (1) of this Rule. A credit bureau report shall be current if not more than 18 months have passed from its date of issue.~~
- (3) Personal Property Appraisals. Appraisals on personal property used as collateral for a loan shall be obtained and shall be completed as follows:
 - (a) ~~Generally.~~ Except as otherwise provided below, a written appraisal of personal property used to collateralize any loan ~~must~~ shall be made or approved by the executive committee or loan committee of the bank, or any branch thereof, or other reliable persons familiar with the value of the property. Except as provided, all appraisals ~~must~~ shall be renewed every 24 months.
 - (b) Requirements. The appraisal required by this Item ~~must~~ shall include:
 - (i) the name of the borrower;
 - (ii) the date the appraisal was made;
 - (iii) the value of the collateral;
 - (iv) the signatures of at least two persons making the appraisal;

- (v) a brief description of the property;
- (vi) the amount of any prior lien and holder of the lien, if any; and
- (vii) the original amount or outstanding balance of the loan which the property is used to secure.
- (c) Appraisal Exceptions. No appraisal shall be required under the following circumstances:
- (i) on collateral to notes of less than fifty thousand dollars (\$50,000);
- (ii) on loans fully secured by obligations of the United States or the State of North Carolina;
- (iii) on loans fully secured by deposits in the bank maintaining the loan account;
- (iv) on loans fully secured by the cash surrender or loan value of life insurance policies;
- (v) on loans fully secured by bonded warehouse receipts;
- (vi) on floor plan loans to dealers fully secured by ~~new automobiles, station wagons, vans, and trucks;~~ motor vehicles;
- (vii) on discounted notes for a dealer where the note is given as the purchase price of ~~an automobile~~ a motor vehicle or other consumer goods; or
- (viii) on loans fully secured by listed securities, unless such loans are within the provisions of the Securities Exchange Act of 1934 as defined by Regulation "U," as amended from time to time by the Board of Governors of the Federal Reserve System. On loans secured by such collateral, ~~the appraisal must~~ shall be made and kept on file until the loan is fully paid.
- (d) Renewal Exceptions. Appraisals need not be renewed annually where ~~an automobile, station wagon, a motor vehicle or mobile home, or a truck or van not exceeding 8,000 pounds empty weight,~~ home is the sole or partial collateral for a loan.
- (e) Single Signature Exception. An appraisal may be performed and signed by only one person where ~~an a motor vehicle or automobile, station wagon, mobile home, or a truck or van not exceeding 8,000 pounds empty weight,~~ home is the sole collateral for a loan.
- (4) Real Estate Appraisals. Unless otherwise provided, all real estate taken as security for loans shall be appraised in the form and manner set forth in Sub-item (4)(a) through (4)(c) of this Rule. In addition, the appraisal ~~must~~ shall be independent in that the appraiser ~~is~~ may not be involved in the loan transaction secured by the property being appraised and ~~has~~ may have no interest, financial or otherwise, in the property;

- 1 (a) The bank may elect to waive the requirement for an appraisal of real estate given
2 as security for loans of fifty thousand dollars (\$50,000) or less. ~~Appraisals of~~
3 ~~real estate given as security for loans over fifty thousand dollars (\$50,000), but~~
4 ~~not exceeding two hundred fifty thousand dollars (\$250,000), whether directly~~
5 ~~or indirectly pledged shall be prepared by any one of the following methods:~~
- 6 (b) Appraisals of real estate given as security for loans over fifty thousand dollars
7 (\$50,000), but not exceeding two hundred fifty thousand dollars (\$250,000).
8 whether directly or indirectly pledged as collateral shall be prepared by any one
9 of the following methods:
- 10 (i) Two members of the executive or loan committee who are familiar with
11 real estate values in the community where the property is located;
- 12 (ii) Two bank employees who are familiar with real estate values in the
13 community where the property is located, provided that one of the two
14 employees ~~must~~ shall not be involved in the loan transaction secured by
15 the property being appraised;
- 16 (iii) A state-licensed real estate appraiser or state-certified real estate
17 appraiser or a person certified as a real estate appraiser by an appraisal
18 trade organization approved by the bank to perform the appraisal; or
- 19 (iv) In lieu of an appraisal as provided by Sub-items (4)(a)(i) through (iii)
20 of this Rule, for loans less than two hundred fifty thousand dollars
21 (\$250,000), a bank may elect to accept a copy of the most recent real
22 property tax notice from the tax administrator's office in the county in
23 which the property is located provided that such notice states the
24 assessed ad valorem tax value of the real estate, and any improvements
25 thereon, separate from the personal property; and provided further, the
26 loan officer shall include with the tax notice a memorandum to file that
27 he or she has obtained the notice from the county tax administrator and
28 is of the opinion that such notice accurately reflects the real property
29 values.
- 30 ~~(b)~~ (c) Except as noted, appraisals required by Sub-items (4)(a)(i), (ii), and (iii) of this
31 Rule shall be in writing, and signed and dated by the person or persons making
32 the appraisal. Additionally, the appraisal ~~must~~ shall identify the loan transaction
33 for which it was made; identify the current balance of any prior lien and the
34 identity of the holder of the lien, if ~~any, disclosed by the attorney's title~~
35 ~~certificate; any;~~ segregate values of improvements from values of the land; and
36 describe the property so as to make it easily identifiable. If a professional
37 appraisal form is used which does not include this information, the bank ~~must~~

1 shall complete and attach to such appraisal its own appraisal summary form
2 disclosing the required information. The appraisal ~~must~~ shall state the basis or
3 approach used to determine the value of the property. Acceptable approaches to
4 determining the value of real property are:

- 5 (i) The current cost of replacing a property, less depreciation relating to
6 deterioration from functional or economic obsolescence;
- 7 (ii) The value indicated by recent sales of comparable properties in the
8 market and other market factors such as listings and offers to sell; or
- 9 (iii) The value that the property's net earning power will support, based on a
10 capitalization of net income.

11 ~~(e)~~ (d) All real estate given as security ~~to~~ for loans in an amount over two hundred fifty
12 thousand dollars (\$250,000), whether directly or indirectly pledged as collateral
13 shall be appraised and such appraisal shall be subject to the provisions of 12
14 C.F.R. 323.1 through 12 C.F.R. 323.7, which are herein incorporated by
15 reference. Pursuant to G.S. 150B-21.6, any reference to 12 C.F.R. 323.1
16 through 12 C.F.R. 323.7 shall automatically include any later amendments or
17 additions to those rules.

18 (5) Certificate of Title. ~~For loans secured primarily by real property and only secondarily by~~
19 ~~the borrower's general credit worthiness and projected income, a certificate of title~~
20 ~~furnished by an attorney at law, or title insurance issued by a company licensed by the~~
21 ~~Commissioner of Insurance, or other insurance coverage that provides to the bank~~
22 ~~substantially similar protection against loss from title defects or errors/omissions at~~
23 ~~closing or other loan related risks, must accompany each deed of trust or mortgage given~~
24 ~~as security on loans of~~ A title opinion furnished by an attorney at law, a title report or title
25 insurance policy issued by a company licensed by the Commissioner of Insurance, or
26 other insurance coverage that provides the bank substantially similar protection against
27 loss from title defects, errors/omissions at closing, and/or other loan-related risks, shall be
28 obtained in connection with each deed of trust or mortgage given as security on each real
29 estate-secured loan when:

30 (a) the loan is primarily secured by real property and only secondarily by the
31 borrower's general credit-worthiness, and

32 (b) the amount of the loan secured by the real property is fifty thousand dollars
33 (\$50,000) or more.

34 (6) Stock Certificate/Powers. Where stock certificates, or similar negotiable securities, are
35 accepted as collateral ~~to loans, for a loan,~~ each certificate ~~must~~ shall be endorsed and
36 witnessed in ink, or accompanied by a stock power signed and witnessed in ink. Where
37 such collateral is in the name of ~~another,~~ someone other than the maker or endorser of the

note, there ~~must shall~~ be on file in the bank written authority from the collateral owner permitting the hypothecation of the collateral.

- (7) Corporate Resolutions. ~~Loans~~ A loan made directly to ~~corporations must~~ a corporation ~~shall~~ be supported by a certified copies copy of ~~resolutions~~ a resolution of the board of directors of the corporation, authorizing the ~~making of such loans.~~ loan transaction.
- (8) Partnership Declaration. ~~Loans~~ A loan made directly to ~~partnerships must~~ a partnership ~~shall~~ be supported by a declaration ~~by~~ of the general partners showing the composition of the partnership and unless all partners sign the note, the authority of the partner(s) executing the note to bind the partnership.
- (9) Limited Liability Company Certification. ~~Loans~~ A loan made directly to a limited liability ~~companies must~~ company shall be supported by a certification of a manager thereof that the loan is has been duly authorized ~~and is obtained for the carrying on in the usual way the business of the limited liability company.~~ by the limited liability company.
- (10) Unlisted Securities. Full credit information on all unlisted securities, now owned or hereafter purchased or acquired, ~~must shall~~ be ~~secured and~~ kept on file in the bank.

*History Note: Authority G.S. 53C-6-1; 53C-8-1; 42 U.S.C. §§ 3331, et seq.;
Eff. February 1, 1976;
Amended Eff. September 1, 2014; December 1, 2011; April 1, 2007; June 1, 1995; May
1, 1992; September 1, 1990; September 1, 1983.*